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CHAPTER 3

ENVIRONMENT

3.1 GENERAL

The purpose of this Chapter is to provide guidance on the process and reporting requirements to comply with Federal statutes, executive orders and regulations concerning Social, Economic and Environmental (SEE) aspects introduced into the highway program during the past four decades. The 1950's emphasized public hearings concerning highway bypasses and impacts on local economics and wildlife resources. The emphasis of the 1960's was for highway projects to be compatible with local planning and to consider their impacts on civil rights, parklands, archeology and history. The 1970's involved more specific identification and balancing of impacts on the natural and human environment.

The environmental process (as defined by the operational procedures contained herein) is based on the Federal Lands Highway (FLH) Divisions' efforts to meet the requirements of the Council on Environmental Quality (CEQ) and DOT Order 5610 1C and [23 CFR 771](#). The implementing procedures that have been developed ensure that proper considerations are given to SEE impacts during the development of highways. The Direct Federal Nationwide Action Plan was developed to meet these requirements (see [Section 3.2.4](#)).

Although the environmental process is an integral part of the conceptual studies stage (see [Chapter 4](#)) during development of highway improvements, it continues throughout the entire spectrum of highway planning, design and construction activities.

Depending upon the magnitude of the highway improvement and its location, the environmental process may range from a minimal effort to a major effort using substantial resources and time, with public and interagency involvement.

The SEE effects of alternatives are identified and compared. Resultant decisions may be to proceed with a build alternative (with agreed upon mitigation measures), to recycle the proposal for further study and/or additional public involvement or to abandon the proposal (no-build).

Environmental clearance of a proposal constitutes approval of the general highway location (corridor) and approval to begin detail design.

The environmental procedures outlined herein apply to projects that come under the decision-making responsibilities of the FLH Divisions. These environmental procedures apply to several types of projects (e.g., forest highways, defense access highways, Indian reservation roads, emergency relief (ERFO) projects, public lands highways when FLH is the lead agency unless other environmental procedures are specified in the project agreement). The State environmental procedures apply for those projects where the FLH Divisions serve basically as consultants to a State Highway Agency.

Unless otherwise stipulated in a project agreement, when the land management agency maintains lead agency responsibility (other than the FLH Division or the State Highway Agency),

neither the State environmental procedures nor the Direct Federal procedures will apply. For these projects, the rules and procedures of the principal land management agency are applicable and the FLH Division basically performs as a consultant.

With the completion of the environmental process, the highway designer is given the scope of the project including the approved alternative, preliminary design standards, corridor location and environmental mitigation commitments. These elements provide substantial input and direction into the subsequent design phase.

3.1.1 *National Environmental Policy Act (NEPA)*

NEPA, enacted in 1969, is the basic national charter for protection of the environment. It establishes policy, sets goals and provides means for carrying out the policy. NEPA is the most sweeping of all pieces of environmental legislation since it deals with the total impact on the natural and human environment. NEPA applies to every Federal agency. On major Federal actions it requires a systematic, interdisciplinary approach in planning, decision making and consultation with other Federal, State and local agencies. Public involvement is an integral part of the environmental/conceptual studies design process that ensures adequate opportunity for citizen and/or agency input and an exchange of views. Many States have also passed environmental policy acts similar to NEPA and these may require separate attention.

Since NEPA is a broad based statute, it has been necessary to enact numerous other statutes and executive orders to provide specific directions and procedures to protect all important environmental concerns. [Section 3.5](#) contains a list of legislation, orders and actions or approvals required from other agencies.

3.1.2 Section 4(f)

Section 4(f) is an enacted DOT regulation, originally contained in the *1966 Transportation Act* that is now codified in [23 USC 138](#) and [49 USC 303](#), which substantially restricts the use of publicly owned special purpose land for transportation facilities. The regulation states that the Secretary shall not approve any program or project that requires the use of publicly owned land from public parks, recreational areas, wildlife and waterfowl refuges and historic sites of national, State or local significance for a highway unless there is no feasible and prudent alternative to the use of this land, and the program includes all possible planning to minimize harm to Section 4(f) lands resulting from highway usage.

Section 4(f) preceded NEPA by several years and resulted in several significant court decisions requiring extraordinary measures to be taken to avoid or minimize harm to Section 4(f) lands.

Procedures to protect Section 4(f) sites are included in DOT Order 5610.1C, [23 CFR 771](#) and the Direct Federal Nationwide Action Plan. Documentation and reporting criteria is included in [FHWA Technical Advisory T6640.8A](#).

3.2 GUIDANCE AND REFERENCES

Numerous guidance, advisory and regulatory procedures have been written to assist in carrying out NEPA and other environmental statutes and orders. Copies of these procedures, addressed in the following discussions, are available in the Environmental Planning Unit in each FLH Division.

3.2.1 Council on Environmental Quality (CEQ) Regulations

The Council on Environmental Quality (CEQ) was established in the Executive Branch by NEPA to advise the President about environmental matters and to guide Federal agencies in complying with the procedures and goals of NEPA. These directions are included in the CEQ Regulations ([40 CFR 1500-1508](#)) for implementing the provisions of NEPA. The CEQ regulations also include the pertinent requirements of separate statutes and executive orders on the protection and enhancement of environmental quality.

The CEQ regulations require Federal agencies to develop supplementary procedures applicable to each agency's programs and responsibilities.

3.2.2 Procedures for Considering Environmental Impacts (DOT Order 5610.1C)

This order implements the provisions of Section 102(2) of NEPA, the CEQ regulations and the statutes and executive orders for Federal Highways.

The order also implements the following:

- Section 4(f) regulations,
- [Clean Air Act](#),
- [Historic Preservation Act](#),
- Coastal Zone Management Regulations,
- [Fish and Wildlife Act](#),
- [Endangered Species Act](#), and
- Water Pollution Control Regulations.

The DOT order includes procedures relative to environmental impacts in decision making and directs that information of proposed DOT agency actions be made available to public officials and the general public through appropriate documents. This order also requires DOT agencies (e.g., FHWA, UMPTA) to develop supplementary implementing procedures.

3.2.3 Environmental Impact and Related Procedures ([23 CFR 771](#))

These are FHWA/UMPTA regulations that incorporate the requirements of the CEQ regulations and DOT Order 5610.1C. They also set forth procedures for complying with other environmental statutes, principally Section 4(f) of the *DOT Act of 1966* and Section 136(b) of the *1970 Federal-aid Highway Act*. These regulations are cross-referenced in [49 CFR 622](#). None

of the above three regulations (CEQ, DOT Order 5610.1C and [23 CFR 771](#)) are all inclusive; all three must be consulted to satisfy all environmental requirements.

3.2.4 Direct Federal Nationwide Action Plan

Section 136(b) of the *1970 Federal-aid Highway Act* ([23 USC 109\(h\)](#)) directed the Secretary of Transportation to promulgate guidelines designed to ensure that possible adverse Social, Economic and Environmental (SEE) effects of Federal-aid highway projects are fully considered and that final decisions are made in the best overall public interest.

These requirements were set forth in State and Direct Federal Action Plans that included organizational responsibilities and procedures for achieving the following objectives:

- increased involvement of the public, groups and other agencies in the planning and development of projects;
- use of a systematic interdisciplinary approach;
- identification of SEE effects; and
- consideration of other courses of action that would include alternative types and varying magnitudes of highway improvements, other transportation modes or no action.

The Direct Federal Nationwide Action Plan incorporates those requirements and facilitates compliance with other environmental requirements.

FHWA no longer requires highway agencies to document their procedures through action plans. However, if action plans are not used, agencies must substitute other documentation of their procedures. These procedures shall be acceptable to FHWA and shall be understandable and accessible to the public. FLH Division offices shall continue to use the Direct Federal Nationwide Action Plan.

A national committee was established and given the responsibility for updating and keeping the action plan current. The committee is composed of representatives from the following offices:

- Federal Lands Highway Office,
- Office of Environmental Policy,
- Federal Lands Highway Division offices, and
- Federal Land Management Agency offices.

An action plan committee was also formed in each of the Federal Lands Highway Division offices with the following responsibilities:

- assist in the implementation of the action plan,
- make reviews, provide guidance and determine direction during a project development stage; and
- ensure commitments are incorporated into the project design and construction.

3.2.5 [Guidance for the Preparation and Processing of Environmental and Related Documents \(FHWA Technical Advisory T6640.8A \(1987\)\)](#)

This advisory provides guidance in the preparation of environmental documents relevant to NEPA and Section 4(f). It addresses CE and EA/FONSI determinations, supplemental EIS's, EIS reevaluations and Section 4(f) evaluations.

The advisory also provides the guidance required by [23 USC 109\(h\)](#) to ensure that possible adverse Social, Economic and Environmental (SEE) effects of proposed actions are evaluated. Consideration of these factors satisfies the reporting requirements of [23 USC 128](#). [Technical Advisory T 6640.8A](#) is not regulatory.

3.3 INFORMATION GATHERING AND COORDINATION

3.3.1 General

Information gathering is continuous throughout the stages of planning and programming, conceptual studies and design. See [Section 3.4](#) for a complete understanding of important engineering and SEE information that must be gathered and assessed to satisfy specific needs or requirements.

The process of identifying needs for project selection, during planning and programming and conceptual studies, is based on engineering and reconnaissance studies describing the physical conditions, current deficiencies, future road needs and estimates of needed improvements and costs.

Engineering and SEE information gathered during environmental/conceptual studies for a proposed project is more specific than reconnaissance studies since reasonable engineering alternatives and their relative costs or impacts must be considered using an interdisciplinary approach, involving other agencies having special expertise or jurisdictional authority, special interest groups and the public.

Interagency and interdisciplinary involvement continues into the design stage where engineering and SEE information may be even more specific as important design elements are refined. At this stage, sound engineering principles should be applied to minimize adverse impacts while maximizing benefits for important SEE aspects.

3.3.2 Information Gathering

The following provides some of the ways information is gathered and disseminated:

- Issuing a letter of intent or a questionnaire describing the scope of proposals to newspapers, other agencies and to groups, persons or organizations asking for comments.
- Establishing contact with those cooperating agencies having jurisdiction on some aspect of the proposal.
- Conducting public and interagency meetings and hearings to explain the proposal and provide a forum for an open exchange of views.
- Undertaking studies or research by specialists in various disciplines in FHWA, other agencies or consultants.
- Forming a task force composed of in-house and other agency specialists during project development activities.
- Establishing a SEE Study Team.

3.3.3 Project Coordination

The many facets of environmental/public involvement require detailed and continuous coordination throughout conceptual studies and design. The Environmental Planning Engineer, assisted as needed by location and/or design engineers, develops and performs the following:

- coordinates the public involvement process;
- prepares environmental documents to comply with environmental laws and regulations;
- initiates and coordinates SEE activities with Federal, State and local agencies, citizen groups and individuals;
- engages consultants for needed expertise;
- collects data and performs environmental studies;
- identifies and analyzes SEE effects;
- recommends measures to mitigate adverse effects for reasonable engineering alternatives as well as the no-action alternative;
- monitors construction of selected projects to provide feedback concerning environmental information to be used in the development of future projects, and to accumulate actual as-constructed environmental data; and
- reviews selected completed projects to determine if they were constructed in conformance with the environmental commitments and if mitigation measures were effective.

3.3.4 SEE Study Team

A SEE Study Team also assists environmental planning and engineering offices in coordinating major proposals during conceptual studies and design.

The team is composed of representatives from the applicable land management agency, Federal Lands Highway Division office and the highway agency with support help from other agencies as needed.

The SEE Study Team performs as follows:

- acts as a steering team for project development activities (e.g., public involvement events, field and office reviews and interagency meetings);
- correlates SEE impacts and engineering needs; and
- represents and advises its agency of any consequences of alternative highway locations and designs.

The SEE Study Team members have the authority to:

- make commitments concerning alternatives; and
- call on needed and available disciplines within the agency (natural, social and technical services and environmental design graphics, as needed, are represented depending on the type of project and impacts foreseen).

3.4 ENVIRONMENTAL ANALYSIS AND PUBLIC INVOLVEMENT

The environmental analysis and public involvement phases use the early information and coordination data to further define and develop the appropriate environmental processes. The various aspects of the proposed improvements are evaluated to determine the scope and nature of subsequent actions required for the environmental clearances and other project development processes. The many factors and alternatives that may be involved require continuing coordination and input from a variety of sources.

The analyses of important environmental aspects during the conceptual studies and design phase should have sufficient scientific and analytical substance to provide a basis for evaluating the alternatives. Include in the analyses, any information, issues, values or other ongoing or planned activities that may have an impact on the evaluation and selection of an alternative. Photographs, illustrations and other graphics may provide a clear understanding of the impacted area. Identify significant SEE effects and make an assessment of the estimated costs, financial and otherwise, of eliminating or minimizing anticipated adverse effects.

The reconnaissance report will include the results of engineering and SEE aspect studies and recommendations. See [Chapter 4](#) and/or the appropriate environmental document addressed in this Chapter for more information.

The disciplines of the highway, land management and resource agencies (also consultants if needed) are used in the environmental analyses. See Section 4 of the Direct Federal Nationwide Action Plan.

3.4.1 Environmental Considerations

Full consideration of favorable or adverse SEE effects and decisions to be made in the best overall public interest require a careful analysis of reasonable alternatives. There is no absolute scale on which a project's desirability can be measured. Only by assessing the SEE effects of all reasonable alternatives can sound judgments be reached. One alternative that must be considered is to do nothing. While this alternative may highlight adverse effects, it also provides a basis for presenting the needs for, and benefits of, the proposed project and the harmful effects of delay or abandonment.

The environmental process requires significant determinations and potential mitigation measures that concern important aspects affected by a proposed project. The following are some examples:

- social aspects include the total effects on the quality of living,
- economic aspects include the total effects on the material needs of people, and
- environmental aspects include the total effects on the human and natural environment.

Consideration of reasonable alternatives should include possible effects on a broad range of SEE aspects. However, the consideration given to each aspect will vary with the characteristics of the area traversed. SEE aspects that are determined relatively unimportant or minimally affected should be eliminated early in the conceptual studies phase, while important SEE aspects should be studied and, if necessary, mitigated during the conceptual studies and design

phases in consultation with land management, natural resource agencies, environmental and special interest organizations, the concerned public and agencies having jurisdiction by statute.

Consideration is given to the consequences and impacts of the proposed project on the following typical environmental and potentially significant features:

- land use,
- farmlands,
- social/economic changes,
- pedestrians/bicyclists,
- air/noise/energy,
- water quality,
- stream modification,
- floodplains/wetlands/riparian vegetation,
- wild and scenic rivers,
- coastal zones,
- threatened/endangered species,
- historical/archeological preservation,
- hazardous waste sites,
- visual/recreational/vegetation,
- construction,
- cumulative impacts,
- relationship of local short-term uses versus long-term productivity,
- irreversible and irretrievable commitment of resources, and
- environmental justice

Some environmental aspects requiring special considerations or procedures are as follows:

- Flood plains and wetlands that cannot be avoided may require preparation of a formal Only (flood plains) or No (wetlands) Practicable Alternative Finding.
- If a threatened or endangered species may be affected, a formal biological assessment is written and consultation achieved with the US Fish and Wildlife Service concerning mitigation measures. Biological evaluations are required if a Forest Service designated sensitive species may be affected.
- A survey of the proposed corridor must be made concerning possible cultural resources. When sites are found, a determination of eligibility to the Federal Register of Historic Places is made. Consultation and/or agreement shall be reached with the applicable State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation concerning disposition of any significant sites (see [Section 3.6.2.4](#)).
- Extraordinary measures must be taken to avoid and/or minimize harm to Section 4(f) lands (see [Sections 3.1.2](#) and [3.6.1](#)).

A sample of a SEE checklist is shown in [Exhibit 3.4-A](#). The use of this type of checklist is encouraged to assist in tracking the numerous SEE aspects and to provide a method of documenting any need for additional action on specific subjects. See the FHWA [Technical Advisory T6640.8A](#) for additional information on SEE considerations.

3.4.2 Project Classification

Projects are classified into one of three categories that prescribe the level of activity and type of documentation required for the environmental clearance process ([23 CFR 771](#)). The numerical designation assigned to a project indicates the type of project, its degree of complexity and the extent of the SEE study needed.

During the first steps of the environmental/conceptual studies analysis, the Action Plan Committee (APC) assigns the classification of the proposed project that indicates the type of environmental document to be prepared. The committee may be guided by the SEE Study Team (see [Section 3.3.4](#)) and environmental planning recommendations, as well as other financial, engineering, traffic and safety considerations, including comments received from agencies and the public.

The project categories are defined below:

1. **Class I.** Actions that significantly effect the environment (EIS).
2. **Class II.** Actions that do not individually or cumulative have a significant environmental effect (CE).
3. **Class III.** Actions in which the significance of the environmental impact are not clearly established (EA).

The minimum level of activities required for each classification is shown in [Exhibit 3.4-B](#). Section 5 of the Direct Federal Nationwide Action Plan illustrates each step in the project development process and highlights interagency and public involvement in both written and flow chart form. The flow charts are shown in [Exhibit 3.4-C](#).

The APC takes one of the following possible actions:

- Assigns the project to the Class I category because of identified significant SEE impacts or an environmentally controversial proposal. A full EIS process is required.
- Assigns the project to the Class II category for approval as a CE by the Division Engineer. This decision may be deferred until appropriate SEE studies are completed.
- Assigns the project to the Class III category requiring the preparation of an EA to determine the significance of the environmental impacts.

This early classification may be changed by the APC as the SEE Study Team and the environmental planning office evaluate the input from early coordination, analyze the SEE effects and recommend a different category.

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CHECKLIST

Project Identification: _____

Checklist prepared by: _____ Date: _____

Instructions: Complete Column A by checking appropriate action response to questions. If action response is Yes, check proper response in Column B. Place a check mark in Column C on those issues considered important and requiring additional discussion or documentation.

PHYSICAL. Will the proposal either directly or indirectly:

1. Change the topography or ground surface relief features?
2. Destroy, cover or modify any unique geologic or physical features?
3. Result in unstable earth surfaces or exposure of people or property to seismic or geologic hazards?
4. Result in or be affected by soil erosion or siltation whether by water or wind?
5. Result in a change in the rate of use of any natural resource? (Include energy fuels.)
6. Result in substantial depletion of any nonrenewable natural resource?
7. Benefit or hinder mining, well drilling, timber production, grazing or other natural resource activity?
8. Result in solid waste or litter control problem?
9. Modify the channel or change the water currents of a river or stream or the bed of the ocean or any bay, inlet or lake?
10. Affect any "Wild and Scenic River's" natural, cultural and recreational value?
11. Cause or be affected by flooding, floodwaters or tidal waves?
12. Cause or be affected by flooding, floodwaters or tidal waves?

A		B		C	
SEE ACTION		Important Issue or Concern?		Additional Discussion Required?	
Yes	No	Yes	No	Yes	No

Exhibit 3.4-A SAMPLE CHECKLIST FOR SEE EFFECTS

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CHECKLIST

PHYSICAL (Continued). Will the proposal either directly or indirectly:

13. Affect surface water, groundwater, public water supply or sole source aquifer?
14. Adversely affect water quality?
15. Change the absorption rates, drainage patterns or rate and amount of surface water runoff?
16. Result in substantial air emissions or adverse effects on or deterioration of ambient air quality?
17. Be consistent with the State Implementation Plan for air quality?
18. Result in noise levels that are inconsistent with Federal, State or local noise standards?

BIOLOGICAL. Will the proposal either directly or indirectly:

19. Result in change in the diversity of species or number of any species of plant (including trees, shrubs, grass, crops, microflora and aquatic plants)?
20. Effect critical habitat of any unique, rare, threatened or endangered species of plant?
22. Result in removal or deterioration of existing fish or wildlife habitat?
23. Change the diversity of species or number of any species of animal (e.g., birds, land animals including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?
24. Reduce the number of any unique, rare, threatened or endangered species of animal?
25. Take area wildlife or waterfowl refuges?
26. Take wetland area?
27. Result in the formation of new wetland?

SOCIAL AND ECONOMIC. Will the proposal directly or indirectly:

28. Be inconsistent with any elements of adopted community plans, policies and goals (e.g., land use plans, management goals)?

Environmental Analysis and Public Involvement

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CHECKLIST SOCIAL AND ECONOMIC (Continued). Will the proposal directly or indirectly:	A		B		C	
	SEE ACTION		Important Issue or Concern?		Additional Discussion Required?	
	Yes	No	Yes	No	Yes	No
29. Affect the location, distribution, density or growth rate of the human population of an area?						
30. Affect life styles or neighborhood character or disrupt an established community?						
31. Affect minority, elderly, handicapped or other specific interest groups?						
32. Affect existing housing, require the displacement of people or create a demand for additional housing?						
33. Affect employment, industry or commerce, or require the displacement of business or farms?						
34. Result in the reduction of area of any prime or unique farmland?						
35. Result in the reduction of area of any prime or unique farmland?						
36. Affect property values or the local tax base?						
37. Affect any community facilities (including medical, educational, scientific, recreational, pedestrian and cultural or religious institutions, ceremonial sites or sacred shrines)?						
38. Affect public utilities or police, fire, emergency or other public services?						
39. Have substantial impact on existing transportation systems or alter present patterns of circulation or movement of people and/or goods?						
40. Affect vehicular movements or generate additional traffic?						
41. Affect or be affected by existing parking facilities or result in demand for new parking?						
42. Increase traffic hazard to motor vehicles, bicyclists or pedestrians?						
43. Involve a substantial risk of an explosion or the release of hazardous substances in the event of an accident or upset condition?						
44. Affect public health, expose people to potential health hazards or create a real or potential health hazard?						

Exhibit 3.4-A SAMPLE CHECKLIST FOR SEE EFFECTS
(Continued)

SOCIAL, ECONOMIC, AND ENVIRONMENTAL CHECKLIST	A		B		C	
	SEE ACTION		Important Issue or Concern?		Additional Discussion Required?	
	Yes	No	Yes	No	Yes	No
SOCIAL AND ECONOMIC (Continued). Will the proposal directly or indirectly:						
45. Affect a significant archeological, historical or cultural site, structure, object or building?						
46. Affect natural landmarks or manmade resources?						
47. Affect publicly-owner parklands or recreational areas?						
OTHER ENVIRONMENTAL CONSIDERATIONS. Will the proposal directly or indirectly:						
48. Result in increased demand on existing sources of energy?						
49. Affect any scenic resources or result in the obstruction of any scenic vista or view open to the public or create an aesthetically offensive site open to public view?						
50. Result in impacts associated with construction activities (e.g., noise, dust, temporary drainage, traffic detours, temporary access)?						
51. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals. ¹						
52. Does the project have environmental effects that are limited individually, but cumulatively considerable? ²						
53. _____						

53. _____						

¹ A short-term impact on the environment is one that occurs in a relatively brief, definitive period of time while long-term impacts will ensure well into the future.						
² Cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, current projects and probable future projects. It includes the effects of other projects which interact with this project, and together, would be considerable.						

Exhibit 3.4-A SAMPLE CHECKLIST FOR SEE EFFECTS
(Continued)

Level of Activity	Class I	Class II	Class III	
Environmental Studies	Yes	Yes	Yes	
Significant Impacts	Yes	No	Yes	No
Opportunity for Public Meeting	As Appropriate	No ²	As Appropriate ³	As Appropriate
Opportunity for Public Hearing	Yes	As Appropriate	Yes ³	As Appropriate
Final Environmental Documentation	EIS	CE	EIS ³	EA ³
Results	ROD	CE	ROD ³	FONSI
<p>¹ See Section 3.4.2 and 23 CFR 771 for project category classifications.</p> <p>² For minor projects (e.g., surfacing, reconstruction and widening existing lanes, adding auxiliary lanes where little or no additional right-of-way is required, installing traffic controls), public hearings are not required and public meetings are generally not requested by the public.</p> <p>³ Projects initially classified as Class III but later determined to have significant impacts will be considered to be in the Class I category and treated accordingly.</p>				

Exhibit 3.4-B MINIMUM LEVEL OF ACTIVITY BY PROJECT CATEGORY¹

3.4.3 Scoping

Scoping is a process for determining the range of issues to be considered in evaluating the environmental impact of a proposal. The scoping process stresses early coordination among agencies involved with or affected by the proposal as well as early public involvement.

The purpose of scoping is to do the following:

- Determine the scope of a proposal's impact limits, its range of alternatives and the significant issues to be analyzed, and to evaluate mitigation measures.
- Identify and eliminate from the detailed study the issues that are not significant or that have been covered by prior environmental documents. The discussion of these issues should be narrowed to a brief presentation of why they will not have a significant effect on the human environment.
- Identify other environmental review consultation requirements so analyses and studies can be integrated.

LEGEND:

APC Action Plan Committee
DEIS Draft Environmental Impact Statement
EA Environmental Assessment
EIS Environmental Impact Statement
EPA Environmental Protection Agency
EPU Environmental Planning Unit

FEIS Final Environmental Impact Statement
FHWA Federal Highway Administration
FLHD Federal Lands Highway Division
FONSI Finding of No Significant Impact
HA Highway Agency
LMA Land Management Agency
SEE Social, Economic, and Environmental
SNRA State Natural Resources Agency
SPOC Single Point of Contact

**Responsible
Agencies or Groups**

FHWA,
HA, LMA

FHWA,
HA, LMA

FHWA,
HA, LMA

FHWA,
HA

FHWA,
HA, LMA

BEGIN PROJECT

Begin Planning and Programming Phase

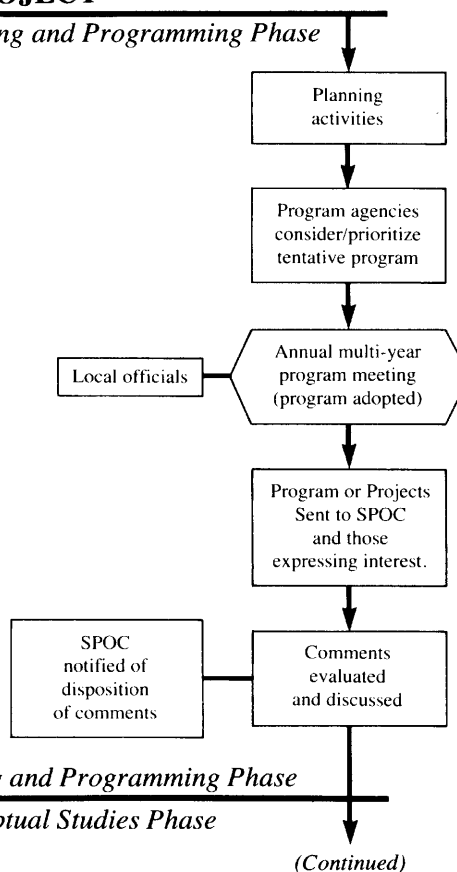


Exhibit 3.4-C PROJECT DEVELOPMENT PROCESS

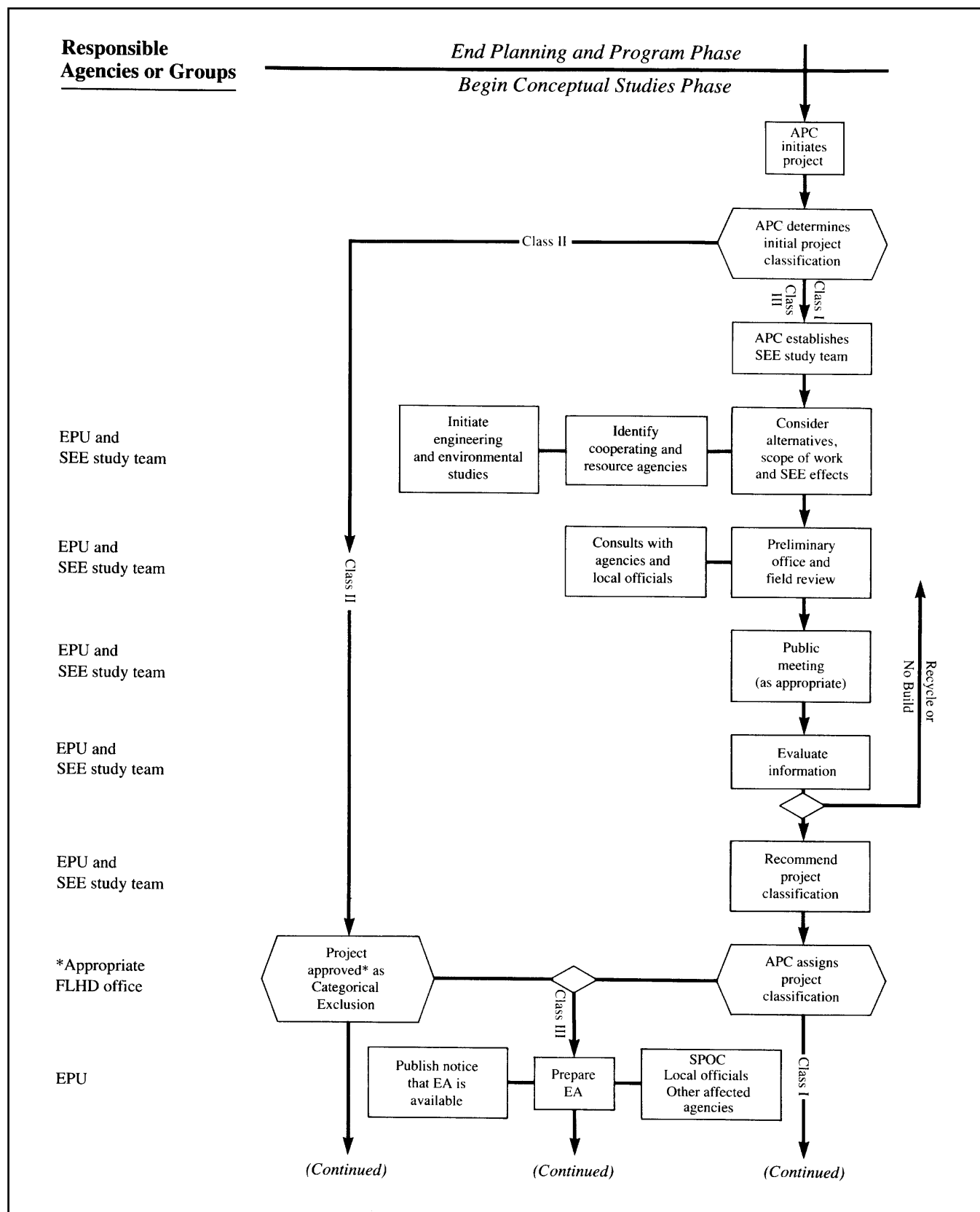


Exhibit 3.4-C PROJECT DEVELOPMENT PROCESS
(Continued)

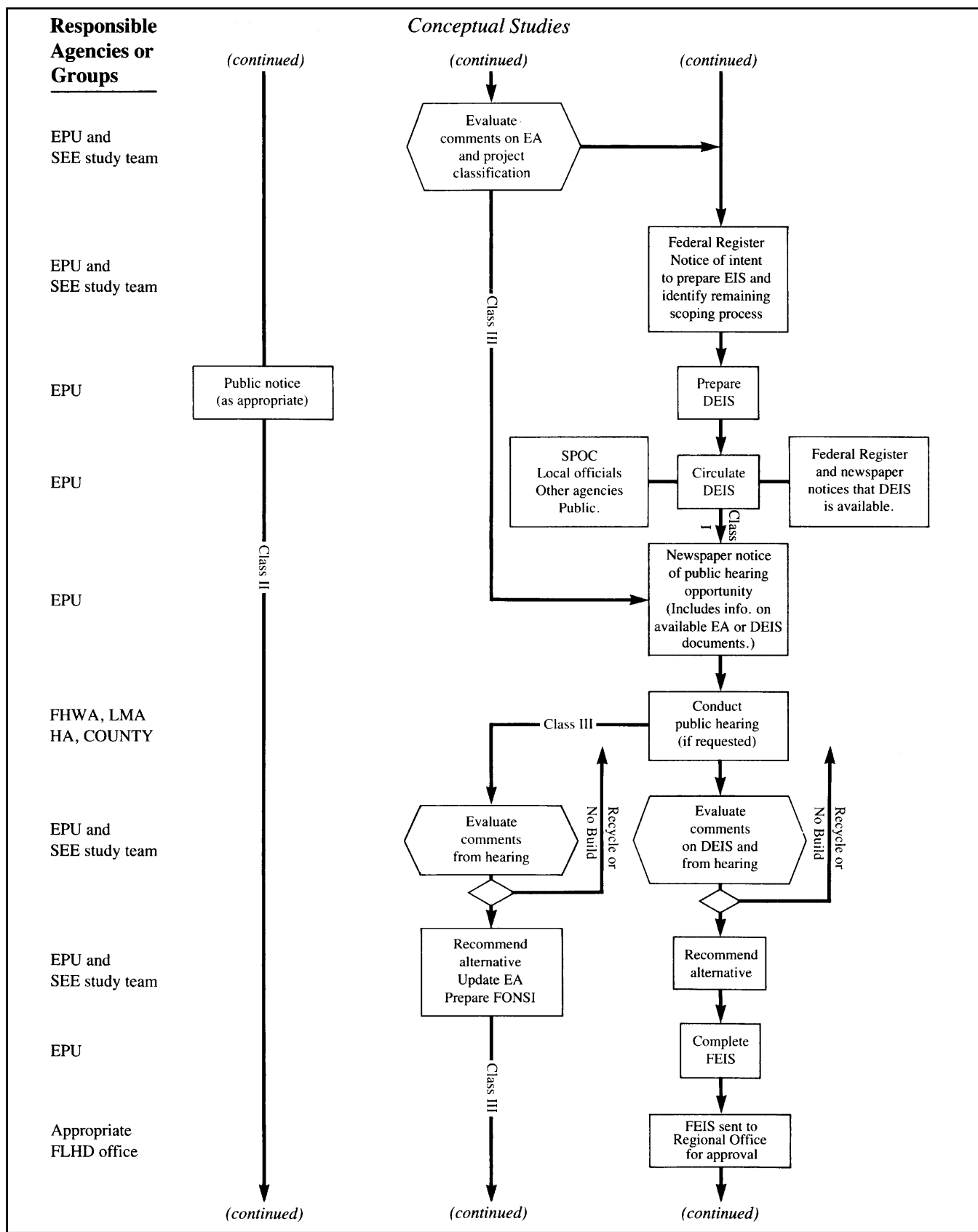


Exhibit 3.4-C PROJECT DEVELOPMENT PROCESS
(Continued)

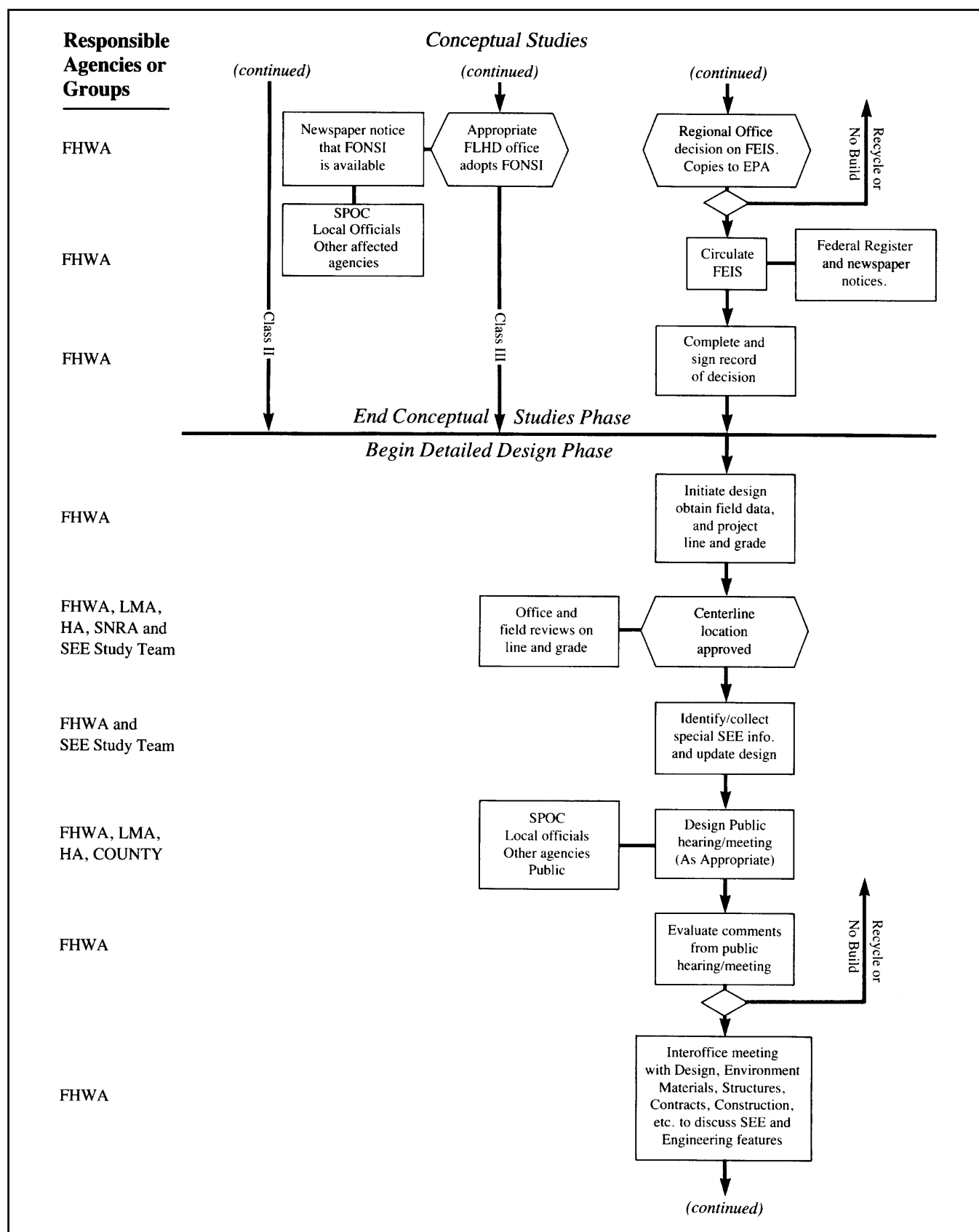


Exhibit 3.4-C PROJECT DEVELOPMENT PROCESS
(Continued)

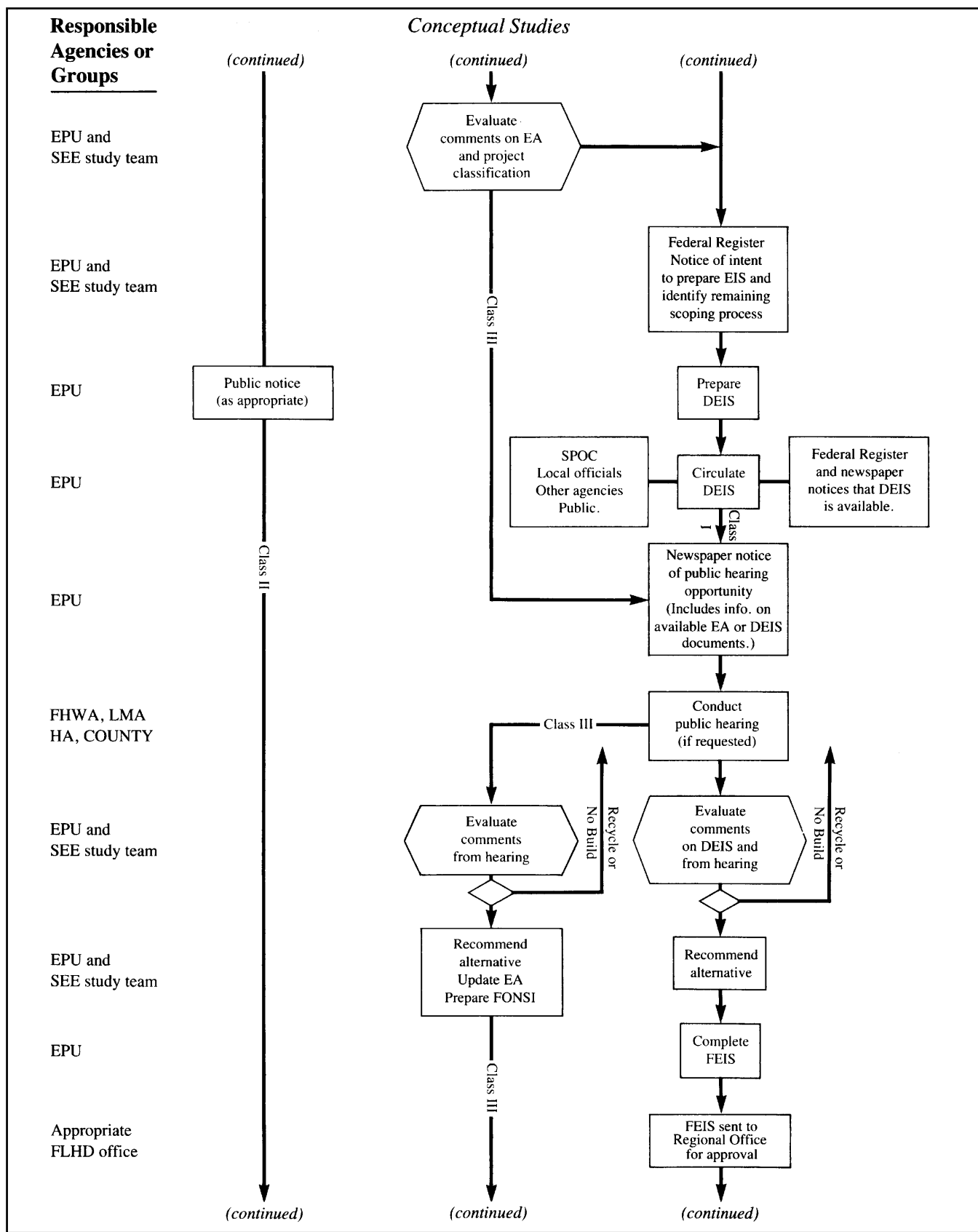


Exhibit 3.4-C PROJECT DEVELOPMENT PROCESS

(Continued)

Scoping will generally consist of joint meetings with all concerned agencies, but can also be accomplished through appropriate public involvement and other mechanisms (e.g., letters, individual meetings). It is FHWA's responsibility, when acting as lead agency, to evaluate the input from scoping and in coordination with other agencies and the public to determine the scope of the environmental document.

Cooperating and interested agencies (e.g., as the land management agency or the permit agencies) are encouraged to assist in preparing environmental documents in order to maximize the joint efforts, minimize duplication and improve the time frame for project development.

3.4.4 Public Involvement

Public involvement is an integral part of the environmental, conceptual studies and design processes that ensure adequate opportunity for citizen and/or agency input and an exchange of views.

Highlights of public involvement are as follows:

- agencies, groups or individuals are asked for input and placed on a mailing list;
- outside agencies and interested groups are consulted during the early coordination process;
- public meetings are held during conceptual studies and design phases;
- the environmental document is available for review and comment;
- location/design public hearings are conducted;
- wide exposure is obtained through public notices; and
- cooperating agencies are determined and their involvement is encouraged at this time.

An effective public involvement program can gain public support, assist the project development process through early identification and resolution of issues and remove potential barriers caused by poor dissemination of information.

Public involvement includes the participation of officials of local governments and other State and Federal agencies, citizens, special interest groups, adjacent residences and businesses, community groups, minority groups and any others expressing interest or knowingly affected by a project.

Local governments, which are often active sponsors of proposed projects, can effectively assist in developing and conducting public participation programs. They, along with State and Federal agencies, should be contacted early in the public involvement process, and be kept informed of the project's progress.

Effective public involvement needs to be flexible, innovative and continuous. Many methods can and should be considered.

The following are intended as a source of ideas from which to develop an effective public involvement effort. Each Division office should respond to changes, as appropriate, in order to keep the affected community informed about project actions.

3.4.4.1 Public Meetings

Meetings are generally more informal and use a less traditional format than hearings. Public meetings range from the large informational and workshop meetings to the small group and one-on-one meetings with individual citizens.

Drop-in centers where the public may leisurely visit to review project displays and interact with FHWA personnel have been very successful in gaining public involvement in a relaxed atmosphere. Small meetings are also very useful for gaining information from special interest and neighborhood groups. Workshop formats, where large groups are organized into small discussion groups, serve to maximize participation while discouraging domination of the meeting by a few individuals. Presentations at regularly scheduled meetings of chambers of commerce, city councils and other interested groups should also be considered. Each Division needs to evaluate what end product is desired from the meeting, then plan accordingly to achieve that product.

Since public meetings or hearings are frequently the Government's principal community exposure, it is important that the person conducting the meeting conveys the people image. For additional information, see the FHWA publication, *Improving the Effectiveness of Public Meetings and Hearings*, 3rd ed., 1981.

When the meeting is well-planned and the meeting moderator is sensitive to the needs of the audience and objective about the needs of the project, public meetings are usually productive public involvement efforts.

Public meetings are to be documented in a report that should be sent to all participants, as well as other interested parties, as appropriate.

3.4.4.2 Notification Techniques

Develop notification techniques to attract a cross section of the public that is interested in the project. Special notices should be provided to those directly affected. All notifications should catch the public's attention and encourage people to attend the meeting or become involved. The following techniques should be considered:

- news releases through TV or newsletters,
- billboard advertisements near project,
- fliers,
- newsletters,
- posters,
- local bulletin board announcements,
- paid advertisements,
- personal contacts,

- radio announcements, and
- on-site tours.

Notices prepared for the public frequently make effective handouts. A well-designed and informative handout can serve as an ongoing link between FHWA and the community.

Handouts have no set format. They should be as clear, relevant, up-to-date and as self-explanatory as possible, and written in a style that is easily understood. Handouts in appropriate foreign languages should be used when necessary. Consider using the following types of handouts when dealing with the public that speaks a language other than English:

- special project newspapers;
- pamphlets, brochures, booklets (for large, complicated projects);
- fliers (for small, simple projects);
- charts, tables, graphs;
- project maps (e.g., aerial photographs or line drawings);
- project development schedules;
- summary project reports;
- right-of-way brochures (or other general information); and
- questionnaires (surveys).

Normally, graphics or visual aids are used to present project information to the public. Clear, attractive and self-explanatory audiovisuals can create a baseline of common interest and understanding. Traveling slide shows or graphic exhibits to inform civic groups, community groups, coffee klatches, local officials, etc., on specific projects have been successfully used. These presentations need to be informal, responsive to questions and concerns and presented by people with the same qualifications as those conducting meetings.

Suggested presentation techniques include the following:

- slides, slide-tape presentations;
- models;
- maps (should be large and simple);
- artist's renderings;
- videotapes;
- photomontages; and
- aerial photograph exhibits.

3.4.4.3 Follow-up Procedures

Even though effective public involvement is ongoing, at significant points in the process, the Division Public Information Officer should follow up public input with general information about the project. Responsive follow-up ensures the public that information gained is appropriately considered in the final decision. Follow-up information needs to convey as accurately as possible how the public's input was used or not used to develop the project.

include newsletters, summary reports, individual contacts or other types of information prepared and disseminated in context with the public's contribution to the project. Follow-up on smaller projects or specific comments may simply be a timely response to individual requests for specific answers or information.

3.4.4.4 Public Hearing Procedures

The statutory requirements for affording the opportunity for public hearings are contained in [23 USC 128](#). At the time this requirement was instituted, public hearings were extremely formal. In the interim, increased emphasis on other involvement mechanisms and major attention to SEE effects have changed the public hearing format. In many cases, a public hearing is structured very differently than in the past. Experience gained in the last several years indicates that a hearing is more effective if it is less formal.

While perhaps the most displayed aspect of an agency's involvement program for certain projects, hearings are only one means of obtaining data on the public's interests, concerns, priorities and perceptions. Consider combining hearings with informal involvement procedures (e.g., open houses or recesses) after the presentations to afford the public the opportunity to review displays and ask one-on-one questions. Holding informal meetings to clarify issues and concerns and to provide prehearing information should be considered in order to reduce misunderstandings and conflicts that might arise at the hearing. The following briefly describes the procedures for public hearings:

1. **Public Hearings.** During the environmental/conceptual studies process, a public hearing must be scheduled or the opportunity offered in order to discuss projects that fall into the following categories:
 - new location;
 - require the acquisition of significant amounts of right-of-way;
 - substantially change the layout or function of connecting roads or streets or of the facility being improved;
 - have a significant adverse impact upon abutting real property or otherwise have a significant social, economic or environmental effect; and/or
 - have been determined by FHWA that the project is in the public interest.

[Exhibit 3.4-D](#) summarizes the application of this hearing criteria by project category. For Class I projects, a public hearing will be scheduled or an opportunity offered for a public hearing. Projects classified as Class II, under [23 CFR 771.117\(d\)](#), may require public hearings or the opportunity for a public hearing offered. On Class III proposed projects, either a public meeting and/or an opportunity for a public hearing is the appropriate action to inform the public and get their input.

To be provided.

Exhibit 3.4-D HEARING CRITERIA BY PROJECT CATEGORY

Public hearings provide a forum for an open exchange of views concerning the need for the project, alternative locations, alternative major design features and the related potential SEE effects. These features most generally can be covered during the conceptual studies phase in project development in a combined corridor and design hearing. However, for a difficult or controversial project, it may be expedient to hold separate corridor and design hearings.

The alternatives presented at each hearing will be developed to comparable levels of detail. The hearings will be held and the comments will be evaluated before final determination of design parameters for an alternative. For example, when a combined hearing is held, some major design features may have been developed. The comments received at the hearing will be considered before either the location or design alternatives are approved.

During a reevaluation of a project, the following criteria for additional hearings or meetings must be considered when there has been any of the following:

- a substantial change in the proposal;
- a substantial unanticipated development in the area affected by the proposal;
- an unusually long lapse of time since the last hearing; and
- significant social, economic or environmental effects identified that were not previously considered at earlier hearings or meetings.

When a substantial amount of right-of-way has already been acquired, alternative locations should be discussed at the hearings/meetings in order to inform the public of the project history; however, the main discussion should center on major design features.

All required hearings should be timed to follow the circulation of the environmental document for the project.

2. **Public Hearing Notices.** Those interested in or affected by proposed projects (e.g., property owners) must be notified of the opportunity for a public hearing and of a scheduled public hearing. At least two notices of the hearing opportunity or the scheduled hearing must be published in newspapers having general circulation in the vicinity of the proposed project, and in any newspaper having substantial circulation in the area concerned (e.g., foreign language and local newspapers).

At the discretion of the Division Engineer, one of the following notice procedures will be followed:

- a. *Publish Notices Twice.* The first notice is published from 30 to 40 days in advance of the deadline for requesting a hearing or of the scheduled hearing. The second notice is published five to 12 days in advance of the deadline for requesting a hearing or of the scheduled hearing.
- b. *Publish Notices Once.* The notices are published for two consecutive weeks, with the notice scheduled to be at least ten days prior to the deadline for requesting a hearing, or of the scheduled hearing.

Each notice shall be sent to appropriate news media; the State's resource, recreation and planning agencies, and appropriate Federal agencies (e.g., Departments of Agriculture, Interior and Housing and Urban Development).

Copies should be sent to local public officials, public advisory groups and agencies who have requested notice of hearing, and other groups or agencies who, by nature of their function, interest or responsibility, are known to be interested in or affected by the proposed project.

Under normal circumstances, each Division maintains a list, which any Federal agency, local public official, public advisory group or agency, civic association or other community group can enroll to receive notices in any area specified by them.

The notice of a hearing opportunity will explain the procedures to use for requesting a hearing and explain that the hearing will either be scheduled or a mutually agreeable meeting will be arranged with those requesting one. The notices also indicate the date, time and place of a scheduled hearing, contain a description of the proposed project and announce the availability of the environmental document. The notices include the procedures for submitting written statements and exhibits at or after the hearing. The public hearing notice indicates that relocation assistance programs, as appropriate, will be discussed at the hearing. Notices for design hearings should also indicate that tentative schedules for right-of-way acquisition and construction will be discussed. Notices also include information (e.g., significant flood plain encroachments) to comply with other applicable laws, executive orders or regulations.

The notice should also specify that maps, drawings and other pertinent information developed by the government and written views received, are available for public inspection and copying. Generally, this inspection will be held at the nearest FHWA,

land management agency or highway agency offices, or at some other convenient location in the vicinity of the project.

Following a public hearing or opportunity for a hearing, a notice is published in the news media concerning the decision made on the final environmental document and/or the action taken on the location, and major design features for Class I and III projects, as well as some Class II projects, as appropriate. See [Exhibit 3.4-E](#) for an example of a typical hearing notice.

3. **Conducting Public Hearings.** Hearings are to be held at a place and time convenient for persons affected by the proposed undertaking and are to be accessible to the disabled. Responsible officials from the highway agency and FHWA or other qualified individuals will be present to conduct the hearings and will respond to questions that arise. The FHWA staff will be available prior to the hearings to receive the public and respond to their questions.

The hearing moderator and participants should be responsive to all reasonable and proper questions. The hearing moderator should control the tone of the hearing and should not allow any person to be harassed or subjected to unreasonable cross-examination.

Formal presentations by the program agencies should be accomplished first, in a reasonable time frame that should last no more than 45 minutes. Questions should not be accepted during this time.

The Federal Highway Administration, together with the Forest Service, Wayne County, Sevier County and the Utah Department of Transportation, will hold a public hearing concerning the reconstruction of a portion of Forest Highway 42. The portion to be reconstructed begins at State Highway 72, about 4.3 km (2.7 mi) northeast of the town of Fremont, then proceeds up the Fremont River valley to Johnson Valley reservoir ending at the recently improved highway on the west side of the reservoir.

The proposed reconstruction will generally follow the existing road. Work will include improving the horizontal and vertical alignment, improving drainage structures, widening the travel lanes to 3.3 m (11 ft) and adding 0.6-m (2-ft) shoulders. The travel lanes and shoulders will be surfaced with a hot asphaltic concrete pavement.

An environmental assessment document has been prepared and is available for examination at the Forest Service offices in Richfield and Loa, at the Utah Department of Transportation district office in Richfield and at the Federal Highway Administration offices in Salt Lake City, Utah and Denver, Colorado. A limited number of copies are available upon request from the Federal Highway Administration address given below. A draft Section 4(f) evaluation report for the 3.2-km (1.97-mi) section of this improvement that lies within the Fish Lake/Johnson Valley Recreation Area has been included.

The proposed improvement will encroach upon the 100-year flood plains of the Fremont River, Sevenmile Creek and UM Creek. The proposal will affect wetlands along the Fremont River and Johnson Valley Reservoir and at the UM Creek and Sevenmile Creek crossings. Corps of Engineers Section 404 permits will be required for the Sevenmile Creek, Fremont River (two), and UM Creek crossings. It is also likely that Section 404 permits will be required at several locations along the Fremont River where riprap will be used to stabilize the bank. Concerns relating to these permits should be expressed at this hearing.

The public hearing will be held on Wednesday, April 2, 1996 beginning at 7 p.m. in the Loa Community Center, Loa, Utah. The hearing is being held to provide an opportunity for citizens to learn more about the proposal and to present oral and written comments.

All written comments that are to be included in the public hearing record must be received at the Federal Highway Administration, PO Box 25246, Denver, Colorado 80225, no later than April 14, 1996.

NOTICE OF PUBLIC HEARING
For the Improvement of
Utah Forest Highway 42
The Fish Lake - Fremont River Road

Exhibit 3.4-E SAMPLE NOTICE FOR A PUBLIC HEARING

There should be a brief break for the public to view the exhibits and visit with the program agency participants. In addition, the agenda should allow for acceptance of written and/or oral presentations by the public in an orderly manner and in an appropriate time frame.

The moderator may decide to have those wishing to speak sign in as speakers or the moderator may decide to randomly select the speakers from the audience. It may be necessary that the moderator limit each speaker's allowed time to accommodate a large number wanting to speak. A random selection of speakers may be more appropriate for smaller groups.

Speakers should be asked to state their names and who they represent so they can be readily identified with their presentations in the hearing transcript.

Responses by the program agency participants may follow each presentation by the public or may be held until later during a question and answer period.

There should be a question and answer period following the formal presentations by the public. Program agency participants should provide informative responses to questions asked. Should information to respond not be available, a verbal commitment may be made to provide the appropriate information to the questioner when it is available.

Prior to adjourning the hearing, the moderator or Division office participant may summarize the important information received at the hearing and relate which procedures, schedules or actions will follow the review based on the hearing information and comments received on the environmental document.

4. **Public Hearing Agenda.** Public hearings are generally more successful and gain more public participation when an informal agenda is used to learn the public's views and opinions in a casual and personal way.

The hearing agenda and/or presentations should be prepared to do the following:

- Explain the purpose of the hearing, the need for the project and the history of project development, including a synopsis of public and interagency involvement activities.
- Provide an appropriate brochure, pamphlet and the Federal, State and county highway agency relationship in the Federal-aid highway program.
- Provide a method of recording attendance and informing the attendees that anyone wishing to receive written notice of FHWA's action resulting from this environmental hearing process should list their name and mailing address on the sign-in sheet.
- Provide information on all reasonable location alternatives studied, on the no-action alternative and on their significant SEE effects at corridor hearings. At corridor/design hearings, discuss all reasonable location/design alternatives, the no-action alternative and significant SEE effects.

- Present preferred alternatives. However, it should be stressed that the alternatives are subject to reevaluation and/or revision based upon public input at the hearing, additional studies, comments made on the environmental document or other information that may become available.
- Explain, as appropriate, right-of-way acquisition procedures, cost estimates and construction schedules including any critical activities that may involve or affect the public.
- Discuss the relocation assistance program and explain which assistance payments are available. Distribute a relocation assistance brochure, pamphlet or similar type of handout.
- In the event that the project requires no relocation, the relocation assistance discussion may be omitted and a simple statement made that relocation assistance is provided when needed, but that no relocation is required by the project under discussion.
- However, right-of-way personnel should still be in attendance and the relocation assistance handout made available to the public.
- Explain that all information developed in support of the proposed location or design will be available upon request for public inspection and copying.
- The information presented for inspection and copying should be available in the locality of the project. A project office, a state transportation facility, a local government office or other Federal offices are logical and sometimes convenient sites for the presentation of the information.
- Explain the requirements for public submission of written statements and exhibits at or within ten days after a hearing. The procedures for making submissions should be described in the notice and at the hearing.

5. **Documenting Public Hearings.** The following documents must be prepared and made available to interested parties:

- a. *Transcript.* A verbatim written transcript of the oral proceedings, together with copies of all written statements or exhibits used or filed in connection with the hearing assembled into one document. The document shall also contain or reference all information made available to the public before the hearing.
- b. *Certification.* A certification stating that the hearing has been held or that the opportunity for the hearing has been afforded. A further certification is prepared stating that the SEE effects of the proposed project have been considered and, where appropriate, the project is consistent with the goals and objectives of the urban planning as has been set forth by the community.
- c. *Environmental Documents.* Appropriate environmental documents that indicate the consideration given to the social, economic, environmental and other effects

of the plan or highway location or design, and the various alternatives that were raised during the hearing, or which were otherwise considered.

The transcript and all other relevant data assembled is made available for public inspection and copying at the locations listed in the public hearing notice.

After the Division Engineer has selected the design to be constructed, the public should be advised. See [Section 3.4.4.2](#) for effective methods of notification.

3.5 APPROVALS

Numerous approvals needed as a proposed project advances through the project development process are addressed in the following Sections.

3.5.1 Actions By Other Agencies

The following list briefly describes various statutes and regulations that require consultation and/or approval actions by other agencies having jurisdictional authority for some aspect of the proposal. Depending on the location of the project and its impact on the surrounding area, additional statutes and regulations may apply.

Many of these actions are common occurrences on most proposals while others are infrequent occurrences. Although some do not require formal approval actions, several regulations have the same time-consuming effect; they involve difficult consultation and agreement on mitigation measures before the environmental document can be completed and the proposed project can be advanced to detailed design.

Environmental legislation requiring consultation, coordination and/or permits, certification, clearance, concurrence or otherwise approvals from other agencies is as follows:

1. **ISTEA.** All Federal Lands Highway Projects are required to be included in an approved State Transportation Improvement Plan (STIP).
2. [**Rivers and Harbors Act of 1899.**](#) The following applies:
 - consult and coordinate with EPA, USACE and USCG,
 - obtain a navigation permit from USCG (see [Section 3.6.2.3](#)), and
 - obtain a fill permit (Section 10) from USACE (see [Section 3.6.2.1](#)).
3. [**Clean Water Act of 1977.**](#) The following applies:
 - consult and coordinate with EPA, USACE and the appropriate State water agency;
 - obtain a Water Quality Certification (Section 401) from the appropriate State water agency; and
 - obtain a fill permit (Section 404) from USACE (see [Section 3.6.2.1](#)).
4. [**Fish and Wildlife Coordination Act of 1958.**](#) The following applies:
 - consult and coordinate with FWS and the appropriate State fish and game authorities, and
 - obtain certification from the appropriate State fish and game authorities pursuant to State Acts.
5. [**Wild and Scenic Rivers Act.**](#) Consult and coordinate with USFS and NPS.

6. [**Clean Air Act of 1970 \(amended 1990\)**](#). FHWA and the appropriate State air agency will determine if the project is consistent with a State implementation plan. Also, consult and coordinate with EPA.
7. [**National Historic Preservation Act of 1966 \(Section 106\) \(amended 1992\)**](#). Consult and coordinate with SHPO and DOI and obtain clearance from SHPO.
8. [**Archeological and Historic Preservation Act of 1974**](#). Consult and coordinate with SHPO and DOI and obtain clearance from SHPO.
9. [**DOT Act of 1966, Section 4\(f\)**](#). Consult and coordinate with HUD, USDA and DOI.
10. [**Land and Water Conservation Fund Act, Section 6\(f\)**](#). Consult, coordinate and obtain approval from DOI if Section 6(f) lands are taken.
11. [**Wilderness Act of 1964**](#). Consult and coordinate with FS, FWS, NPS, BLM and the appropriate State agencies.
12. [**Endangered Species Act of 1973 \(Amended 1978\)**](#). The following applies:
 - see the Memorandum of Understanding between USDA, DOD, USACE, NMFS, DOI, DOT and EPA, dated September 1994; and
 - consult and coordinate with FWS, the appropriate State fish and game authorities and NMFS (marine species only).
13. [**Intergovernmental Cooperation Act of 1968 \(EO 12372\)**](#). Submit notification to the appropriate State's single point of contact.
14. [**Safe Drinking Water Act of 1974**](#). Consult and coordinate with EPA and the appropriate State health agency.
15. [**National Flood Insurance Act of 1968**](#). Consult and coordinate with HUD relative to areas threatened by flood hazard.
16. [**36 CFR Parts 215 and 217**](#). The following applies:
 - procedures for National Forest System Projects and Activities;
 - appeal of Regional Guides and National Forest Land and Resource Management Plans;
 - consult and coordinate with Forest Service; and
 - environmental Justice, Executive Order 12898.
17. [**Evaluation of Flood Hazards, Executive Order 11296**](#). Consult and coordinate with USACE.
18. [**Protection of Flood Plains, Executive Order 11988**](#). Consult and coordinate with USACE and FEMA.

19. [**Migratory Bird Conservation Act**](#). Consult and coordinate with DOI and the appropriate State agencies relative to sanctuaries or wildlife areas.
20. [**Anadromous Fish Conservation Act**](#). Consult and coordinate with FWS, NMFS and the appropriate State fish and game authorities.
21. **Protection of American Antiquities (Monuments and Memorials)**. Consult and coordinate with NPS and the appropriate land management agency.
22. **National Park Service General Authorities Act of 1970**: The following applies:
 - Section 8, National Natural Landmarks; and
 - coordination with NPS.
23. [**Protection of Wetlands, Executive Order 11990**](#). Consult and coordinate with FWS, USACE and the appropriate State fish and game authorities.
24. [**National Trails System Act**](#). Consult and coordinate with NPS and FS.
25. [**Highway Improvements in the Vicinity of Airports \(23 CFR 620, Subpart A\)**](#). Submit design to FAA for approval.
26. [**Farmland Protection Policy Act of 1981 \(7 CFR 658\)**](#). Coordinate with SCS.
27. [**Coastal Zone Management Act of 1972 \(15 CFR 923 and 930\)**](#). Coordinate with the appropriate State Coastal Zone Management Agency and the US Department of Commerce (OCZM).

When applicable, the following actions must occur during the environmental analysis and be documented in the environmental report prior to its completion and approval:

- make a floodplain/wetland determination,
- make a clean air consistency determination,
- obtain a cultural resource clearance,
- perform an endangered species biological analysis, and
- make an airport/highway conflict determination.

Although coordination for action is initiated early in the environmental analysis, the following actions are to be undertaken during the detailed design phase following approval of the environmental report:

- obtain a fill permit,
- obtain a navigational permit,
- obtain a water quality certification,
- obtain a streambed alteration certification (pursuant to some State Acts),
- obtain State and/or local permits for material sources,
- obtain FAA approval of highway design in vicinity of airports,
- obtain NPDES permit,
- obtain State permits for sediment and erosion control during construction,

- obtain State permit for stormwater management,
- obtain State permit for wetland encroachment, and
- obtain State permit for upland mitigation.

3.5.2 Actions by Federal Highway Administration

The environmental process involves numerous approval actions, in consultation with land management agencies, during the conceptual studies stage at various levels of authority in FHWA. See [Exhibit 3.5-A](#).

Action	FHWA Authority
Initial project classification	Action Plan Committee
Final project classification	Action Plan Committee
CE	Division Engineer
FONSI	Division Engineer
Draft EIS	Division Engineer
Final EIS	FHWA Regional Office
Section 4(f) Statement	FHWA Regional Office
ROD	FHWA Regional Office

Notes:

1. *This Exhibit is applicable when FHWA is the lead agency.*
2. *Approval of the CE, FONSI or ROD constitutes approval of the general highway location and to begin detailed design.*
3. *Final EIS approval may require prior concurrence of FHWA Headquarters.*

Exhibit 3.5-A APPROVAL ACTIONS

3.6 REPORTING

The environmental document formally reports the process of collecting, researching, summarizing and analyzing the facts concerning alternatives, focusing on the important impacts and issues.

Underlying scientific theory, assumptions, rationale and findings presented in the environmental document should be clear, concise and to the point. They should be supported by visual aids and evidence that the necessary analyses have been made and understood by the reviewer.

3.6.1 Environmental Documents

The SEE Study Team and the environmental planning engineers should consider for inclusion in the appropriate environmental report the following:

- the important engineering and SEE aspects of the proposed project,
- the effects of no-build, and
- reasonable engineering alternatives and measures to minimize adverse impacts.

The environmental document promotes the policies and goals of NEPA and other environmental statutes in Federal programs and actions.

The engineering information and descriptions of the improvement alternatives contained in the environmental documents are summarized from the conceptual study reports. (See [Section 4.6.2.](#)) Dual units (i.e., metric and US Customary) should be used for all documents that are subjected to public review and comment. Since the final location approval decisions are a product of the environmental process, it is imperative that environmental documents present the engineering data in an accurate, complete and understandable fashion.

FHWA concurs with the CEQ philosophy that the goal of the NEPA process is better decisions. The length of an environmental assessment should range from ten to 15 pages and the length of an Environmental Impact Statement should not normally exceed 150 pages.

The environmental documents are described as follows:

1. **Environmental Assessment (EA).** A public document developed by a Federal agency to provide evidence and supporting analysis for determining whether there is a significant impact and if there is a need to prepare an EIS or a FONSI. An EA is also used to substantiate compliance with NEPA when no EIS statement is necessary.

This document should include discussions of the need for the proposed project, of the environmental impacts of the preferred action, no-build and other reasonable alternatives, and a listing of agencies and persons consulted.

2. **Finding of No Significant Impact (FONSI).** A document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and that therefore an EIS will not be prepared. The

FONSI includes the EA or a summary of it and notes any other environmental documents related to it. If the EA is included, the FONSI need not repeat any of the discussion in the EA but may incorporate it by reference.

3. **Environmental Impact Statement (EIS).** A detailed, written statement containing an assessment of the anticipated significant, beneficial and/or detrimental effects that a proposed major FHWA action, no-build or other alternatives may have upon the quality of the human environment.
4. **Record of Decision (ROD).** A decision document that follows the final EIS and sets forth the reasons for the project decision, based on material in the EIS. While cross referencing and incorporation by reference of material in the final EIS or other documents is appropriate, the ROD completely and clearly explains the basis for the project decision.
5. **Categorical Exclusion (CE).** A statement on an action that does not individually or cumulatively have a significant effect on the human environment and has no effect on procedures adopted by a Federal agency in implementing the CEQ regulations. Neither an EA nor an EIS is required. Examples of projects complying with these regulations are specific highway improvement projects (e.g., resurfacing, reconstruction and widening existing lanes, adding auxiliary lanes).

Although CE proposals do not require a formal environmental document pursuant to NEPA, coordination and documentation is still required for other applicable environmental statutes and regulations.

6. **Section 4(f) Evaluations/Approvals.** The FHWA Technical Advisory T 6640.8A provides detailed information on format and content requirements for documenting and reporting evaluations or approvals on projects proposing to use Section 4(f) lands.

A no-build decision and each reasonable engineering alternative that uses Section 4(f) lands should be addressed. For a complex 4(f) involvement, include the analysis in a separate part of the EIS, EA or FONSI document. For projects processed as a CE, the evaluations or determinations may be in a separate document.

The Section 4(f) approval is incorporated into the final EIS, ROD or FONSI document. For projects processed as a CE, the approvals should be in a separate document.

3.6.2 Permits/Clearance Documentation

As discussed in [Section 3.5](#) and in other [Chapters](#), numerous permits/clearances or other similar actions or documentation are required before projects may be advanced to construction.

3.6.2.1 Fill Permits pursuant to Section 404

During USACE review of Section 404, fill permit applications pursuant to the [Clean Water Act](#), USACE will consider earlier public meetings or hearings and consultations with the Water Quality and Natural Resource agencies and the Fish and Wildlife Service.

Satisfactory processing of fill permit applications is dependent upon a well written environmental report, use of procedures detailed in the FHWA/USACE Memorandum of Agreement and the providing of evidence of public and interagency involvement.

The environmental report should give the general location of fill activity, approximate quantities of fill material, general construction grades, proposed mitigation measures and evidence of public and interagency involvement.

The application to the USACE for a fill permit generally occurs during the design phase of the proposal and uses Standard Form 4345. The proposed fill activity, its purpose and intended use must be described in detail. A sample of an application form is shown in [Exhibit 3.6-A](#).

General or Nationwide permits are issued by USACE for any category of activity on a State, regional or national basis if the activities are similar in nature and will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse environmental effects.

3.6.2.2 Other Clearances (Sections 401 and 402 of *Clean Water Act*)

Certifications are required from the State water quality agency pursuant to Sections 401 (water quality) and 402 (point discharges) of the [Clean Water Act](#). Consultation with the Environmental Protection Agency concerning point discharges is also required. National Pollution Discharge Elimination System (NPDES) permits are also required for many projects.

Modifications of streambeds may also require a permit from the State natural resources agency pursuant to State statutes.

These actions are byproducts of the USACE and US Coast Guard permit procedures.

3.6.2.3 Navigation Permit (Section 10 of the *Rivers and Harbors Act of 1899*)

USACE permits are required whenever proposed projects involve building any obstruction in navigable waters or waters subject to tidal influence. US Coast Guard permits are required under Section 9 of the [Rivers and Harbors Act of 1899](#) and Section 502(b) of the [General Bridge Act of 1946](#).

The USACE, Fish and Wildlife Service and the appropriate State water quality and natural resource agencies are also involved because Sections 401, 402 and 404 of the [Clean Water Act](#) and State streambed alteration statutes are applicable.

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT <i>(33 CFR 325)</i>		OMB APPROVAL NO. 0702-0036 Expires 30 June 1992	
<p>Public reporting burden for this collection of information is estimated to average 5 hours per response for the majority of cases, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Applications for larger or more complex projects, or those in ecologically sensitive areas, will take longer. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503.</p>			
<p>The Department of the Army permit program is authorized by Section 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act and Section 103 of the Marine, Protection, Research and Sanctuaries Act. These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Information provided on this form will be used in evaluating the application for a permit. Information in this application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary; however, the data requested are necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.</p> <p>One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see <i>sample drawings and instructions</i>) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.</p>			
1. APPLICATION NUMBER <i>(To be assigned by Corps)</i>		3. NAME, ADDRESS, AND TITLE OF AUTHORIZED AGENT	
2. NAME AND ADDRESS OF APPLICANT		Telephone no. during business hours A/C () _____ (Residence) A/C () _____ (Office)	
Telephone no. during business hours A/C () _____ (Residence) A/C () _____ (Office)		Statement of Authorization: I hereby designate and authorize _____ _____ to act in my behalf as my agent in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.	
SIGNATURE		DATE	
4. DETAILED DESCRIPTION OF PROPOSED ACTIVITY			
4a. ACTIVITY			
4b. PURPOSE			
4c. DISCHARGE OF DREDGED OR FILL MATERIAL			

ENG FORM 4345, Aug 89

EDITION OF APR 86 IS OBSOLETE

(Proponent: CECW-ON)

EXHIBIT 3.6-A**APPLICATION FOR A USACE FILL PERMIT**

5. NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ALSO ADJOINS THE WATERWAY
6. WATERBODY AND LOCATION ON WATERBODY WHERE ACTIVITY EXISTS OR IS PROPOSED
7. LOCATION ON LAND WHERE ACTIVITY EXISTS OR IS PROPOSED ADDRESS: _____ STREET, ROAD, ROUTE OR OTHER DESCRIPTIVE LOCATION _____ COUNTY STATE ZIP CODE _____ LOCAL GOVERNING BODY WITH JURISDICTION OVERSITE
8. Is any portion of the activity for which authorization is sought now complete? YES NO If answer is "yes" give reasons, month and year the activity was completed. Indicate the existing work on the drawings.
9. List all approvals or certificates and denials received from other federal, interstate, state or local agencies for any structures, construction, discharges or other activities described in this application. ISSUING AGENCY TYPE APPROVAL IDENTIFICATION NO. DATE OF APPLICATION DATE OF APPROVAL DATE OF DENIAL
10. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in the application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant. SIGNATURE OF APPLICANT _____ DATE _____ SIGNATURE OF AGENT _____ DATE _____ <i>The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 3 has been filled out and signed.</i> 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(Reverse of ENG FORM 4345)

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Exhibit 3.6-A APPLICATION FOR A USACE FILL PERMIT
(Continued)

Consultation is similar to [Section 3.6.2.1](#), but with US Coast Guard and other waterway agencies involved. Specific responsibilities are included in the FHWA/US Coast Guard Memorandum of Understanding. Should a proposal affect a historic bridge that is eligible for the National Register of Historic Places, coordination with the US Coast Guard is necessary to ensure they will accept the environmental document and/or programmatic Section 4(f) approach.

The navigational and engineering needs, environmental resources and effects and mitigation measures should be discussed and agreed upon and documented in the appropriate FHWA environmental report. There may be instances where the US Coast Guard will process a FHWA Categorical Exclusion with a US Coast Guard FONSI.

3.6.2.4 Cultural Resource Clearance

Studies and consultations concerning cultural resources are performed together with alternative studies and other environmental aspects to minimize or mitigate the effects of proposed projects and ensure timely clearance. Consider the following:

1. **Cultural Resource Analyses.** The following applies:
 - consult with the SHPO, historical societies and groups and management agencies;
 - conduct historical/archeological surveys;
 - identify properties included in or eligible for inclusion in the National Register of Historic Places; and
 - evaluate the effect of the proposed action.
2. **Documentation in the EA or draft EIS.** The following applies:
 - resources and survey information;
 - coordination with SHPO;
 - determination of effect on eligible sites by FHWA;
 - proposed mitigation measures (e.g., avoidance, data recovery); and
 - unresolved issues.
3. **Documentation in the FONSI or Final EIS.** The following applies:
 - coordination with the SHPO;
 - coordination with the Advisory Council on Historic Preservation (ACHP), if there is an effect;
 - determination of no adverse effect (with or without conditions);
 - Memorandum of Agreement with the ACHP/FHWA/SHPO, if there is an adverse effect; and

- unresolved issues.

Some Categorical Exclusion projects may involve cultural resources that will be documented in the project files.

3.6.2.5 Airport Clearance

Reconstruction or relocation of any highway located within a 3.2-km (2-mi) radius of an airport facility shall be coordinated with the appropriate FAA authority to ensure that airway-highway clearances are adequate for the safe movement of air and highway traffic. See [23 CFR 620 Subpart A](#) and FHPM 6-1-1-2.

3.6.2.6 Other Approvals and/or Certifications

If a proposed project is located within a coastal management zone, a consistency statement concerning the local coastal zone management program may be required by the FLH Division Engineer.

Plans for the construction, operation or maintenance of any structure affecting navigation or flood control in or around the Tennessee River and its tributaries must be approved by the Tennessee Valley Authority (TVA) pursuant to Section 26a of the *Tennessee Valley Authority Act*. The TVA may require an EA before approving the proposed project.

3.6.2.7 Standard Forms

Standard forms are sometimes used by other agencies in order to obtain data needed to apply for a permit or clearance for the portion of a project for which they are responsible.

The most recurring use of a standard form is for applications to USACE for a fill permit. (See [Exhibit 3.6-A](#).)

3.7 DIVISION PROCEDURES

Reserved for Federal Lands Highway Division office use in supplementing the policy and guidelines set forth in this Chapter with appropriate Division procedures and directions.